

Atty. Dkt. No. 023727-2201

REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

The present invention provides a flashlight with a battery housing and a replaceable, rotatable head containing a light source assembly that is directed at approximately right angles to the long axis of the battery case. The light source assembly is oriented at an fixed angle of 90 ± 60 (in particular embodiments 90 ± 30 , 90 ± 20 , 90 ± 10 or 90 ± 5) degrees to the long axis. The flashlight may also include a glass breaker that efficiently transfers kinetic energy to the impact point. The inclusion of the glass breaker is particularly useful for adapting the flashlight for emergency use. The rotatable head is advantageous because it allows for the head of the flashlight to be rotated without altering the placement of the body of the flashlight (which may be clipped to a user or placed on a flat surface), thereby allowing for control over the placement of the light beam.

By the present communication, claims 53-59 and 73 are cancelled. Claims 1-52 and 60-72 remain in the application under active prosecution. The present status of all claims in the application, and current amendments thereto, is provided in the Listing of Claims presented herewith beginning on page 2.

Rejection for Obviousness-type double patenting

The rejection of claims 1, 6, 9-14, 16, 17, 22-27, 31-36, 60-63 and 67-70 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-37 of co-pending Application No. 10/638,123 (now allowed, U.S. patent No. 6,955,446; "the '446 patent") in view of U.S. patent No. 6,283,610 to Alajajian ("the '610 Patent") is respectfully traversed.

Applicant's invention, as defined for example by claim 1, requires a flashlight comprising, *inter alia*, "a rotatable head comprising a circular housing connection and a light

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source assembly, wherein said housing connection is attached to said housing at said front end, wherein said light source assembly is oriented at 90 ± 30 degrees to the long axis of said battery housing, said rotatable head is rotatable about said long axis.” As acknowledged by the Examiner, the ‘446 Patent does not disclose a rotatable head. (See Office Action p.3, lines 4-7).

Applicants respectfully disagree with the Examiner’s assertion that it would have been obvious to one of skill in the art to combine the flashlight disclosed in the ‘446 Patent with the rotatable head disclosed in the ‘610 Patent. (See Office Action p. 3, lines 16-19). However, the ‘610 Patent does not teach a flashlight head which rotates about the long axis of the battery housing. Indeed, the ‘610 Patent explicitly states that the flashlight head “rotates not about its major axis, but about an axis normal to the 45-degree-inclined end.” (See col. 5, lines 25-27 and Figure 6). As shown by Figs. 1 and 6, rotation about this axis allows the flashlight head to be rotated from a position in-line with the major axis (shown in Fig. 1), to a position which is 90 degrees from the major axis (shown in Fig 6). This is distinct from the present invention which requires that the head of the flashlight is rotatable about the long axis. Thus, because the ‘446 and ‘610 Patents, either alone or in combination, do not disclose every feature of the invention as presently claimed, rejection is improper.

Claims 6, 9-14, 16, 17, 22-27, 31-36, 60-63 and 67-70 similarly require that the flashlight head be rotatable about the long axis. Thus, for the reasons noted above, rejection is improper. Reconsideration and allowance of all claims are respectfully requested.

Rejection of the claims under 35 U.S.C. § 102(b)

The rejection of claims under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. patent No. 6,283,610 (“the ‘610 Patent”) to Alajajaian is respectfully traversed.

It is fundamental that a rejection for anticipation requires disclosure in a single reference of each and every claim limitation. See MPEP §2131. Applicant’s invention, as defined for example by claim 22, requires a flashlight comprising, *inter alia*, “a rotatable head comprising a

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circular housing connection and a light source assembly, wherein said housing connection is attached to said housing at said front end, wherein said light source assembly is oriented at 90 ± 30 degrees to the long axis of said battery housing, said rotatable head is rotatable about said long axis." The '610 Patent does not teach a flashlight with head that rotates about the long axis.

Instead, the '610 Patent teaches a flashlight head which rotates about an axis which is approximately 45 degrees relative to the major axis, (see col. 5, lines 6-20; defined as item no. 324 of Fig. 6), allowing the flashlight head to be rotated from a position which is in-line with the major axis (shown in Fig. 1) to a position which is 90 degrees relative to the major axis (shown in Fig 6). Moreover, the specification explicitly states that the flashlight head does not rotate about its major axis. (See col. 5, lines 15-17). Thus, because the '610 Patent does not teach every feature of the invention as presently claimed, rejection is improper.

Because claims 23-25, 67, 69 and 70 similarly require a flashlight head which is rotatable about the long axis, rejection is improper. Reconsideration and allowance of all claims are respectfully requested.

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to contact the undersigned so that a prompt disposition of this application can be achieved.

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The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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